

ORDINANCE OF THE COUNCIL OF THE CITY OF
FRESNO PROPOSED AND INITIATED BY _____
MOVED BY Castillo SECONDED BY Perea

ORDINANCE NO. 2003-84

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA,
ADDING ARTICLE 22 OF CHAPTER 2 TO THE FRESNO
MUNICIPAL CODE, RELATING TO CAMPAIGN CONTRIBUTION
LIMITS FOR CANDIDATES FOR ELECTIVE CITY OFFICE.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

SECTION 1. Article 22 of Chapter 2 is added to the Fresno Municipal Code to read:

ARTICLE 22

CANDIDATES FOR ELECTIVE CITY
OFFICE-CAMPAIGN CONTRIBUTION LIMITS.

- SECTION 2-2201. Title.
- SECTION 2-2202. Purpose and application.
- SECTION 2-2203. Definitions.
- SECTION 2-2204. Off-year contribution prohibition.
- SECTION 2-2205. Campaign contributions-limitation on amount.
- SECTION 2-2206. Loans.
- SECTION 2-2207. Affiliated entities; aggregation of contributions.
- SECTION 2-2208. Restrictions on contributions by candidates.
- SECTION 2-2209. Return of excessive contributions.
- SECTION 2-2210. Separate bank account for attorney's fees.
- SECTION 2-2211. Enforcement authority. Complaints, legal action, investigatory powers.
- SECTION 2-2212. Enforcement.
- SECTION 2-2213. Applicability of other laws.
- SECTION 2-2214. Severability.

SECTION 2-2201. TITLE. This article may be cited as the "Local
Campaign Contribution Limits Ordinance" of the City of Fresno.

Adopted 9/23/03
Approved 10/2/03
10/2/03

SECTION 2-2202. PURPOSE AND APPLICATION. The purpose of this article is to ensure that individuals and interest groups have a fair and equal opportunity to participate in municipal elective and governmental processes. This article is intended to supplement, and in no way conflict with, the Political Reform Act of 1974 ("Political Reform Act"), as amended. Statutory references to specific provisions of the Political Reform Act shall include its amendments.

SECTION 2-2203. DEFINITIONS.

(a) Unless the particular provision or the context otherwise requires, the provisions, definitions of words and phrases, and interpretations of the Political Reform Act codified in Government Code Sections 81000 et seq., and its implementing regulations in California Code of Regulations, Title 2, Sections 18110 et seq., as amended, are to be relied upon in administering this article.

(b) "Election" means any direct primary election, any general municipal election, and any special municipal election as outlined in Charter Sections 1400 and 1401. For purposes of this article, "election" does not include recall elections or elections on ballot measures.

(c) "Enforcement Authority" means the officer, agent or organization designated by resolution of the Council to enforce the provisions of this article. Nothing in this article shall be construed as limiting the authority of any law enforcement agency or prosecuting attorney to enforce the provisions of this article.

(d) "Entity" means any person, other than an individual.

(e) "Majority-owned" means an ownership of more than 50 percent.

(f) "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, a controlled committee, and any other organization or group of persons acting in concert, as defined in Government Code Section 82047.

(g) "Political Party Committee" means a state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code, as defined in Government Code Section 85206.

(h) "Small contributor committee" as defined in Government Code Section 85203, means any committee that meets all of the following criteria:

(1) The committee has been in existence for at least six months; and

(2) The committee receives contributions from 100 or more persons; and

(3) No one person has contributed to the committee more than two hundred dollars (\$200) per calendar year; and

(4) The committee makes contributions to five or more candidates.

SECTION 2-2204. OFF-YEAR CONTRIBUTION PROHIBITION. In accordance with Charter Section 309, no Mayoral candidate, Council candidate, or any committee controlled by such person shall solicit or accept any contribution in support of such candidate's election prior to the date fixed by law for the filing of nomination papers with respect to such election, or following the year in which such election is held.

SECTION 2-2205. CAMPAIGN CONTRIBUTIONS-LIMITATIONS ON AMOUNT.

(a) A person, other than a small contributor committee or a political party committee, may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a person, any contribution totaling more than three thousand two hundred dollars (\$3,200) per election. The provisions of this section do not apply to a candidate's contributions of his or her personal funds to his or her own campaign.

(b) A small contributor committee may not make to any candidate for elective City office, and a candidate for elective City office may not accept from a small contributor committee, any contribution totaling more than six thousand four hundred dollars (\$6,400) per election.

(c) The contribution limitations set forth in this article shall be adjusted in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index, as determined by the Fair

Political Practices Commission pursuant to Government Code Sections
83124, 85301(a), and 83502(a).

SECTION 2-2206. LOANS.

(a) The provisions of this article do not apply to loans and extensions of credit made to a candidate by a commercial lending institution in the lender's regular course of business on terms available to members of the general public for which the candidate is personally liable.

(b) In accordance with Government Code Section 85307, a candidate for elective City office may not personally lend to his or her campaign an amount, the outstanding balance of which exceeds one hundred thousand dollars (\$100,000). A candidate may not charge interest on any loan he or she made to his or her campaign.

SECTION 2-2207. AFFILIATED ENTITIES: AGGREGATION OF CONTRIBUTIONS.

(a) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(b) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

(c) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

(d) Contributions made by a husband and wife may not be aggregated, and shall be treated as contributions from separate persons. Contributions made by a child under 18 years of age is presumed to be a contribution from the parent or guardian of the child.

SECTION 2-2208. RESTRICTIONS ON CONTRIBUTIONS BY CANDIDATES. A candidate for elective office or committee controlled by that candidate may not make any contribution to any candidate for elective City office in excess of the limits for persons set forth in Section 2-2205(a).

SECTION 2-2209. RETURN OF EXCESSIVE CONTRIBUTIONS. The candidate or the candidate's controlled committee shall return any amount in excess of the contribution limit set forth in this article to the contributor within 14 days of receipt. The excess contribution and the date of its return shall be reported on a form prepared or provided by the City Clerk.

SECTION 2-2210. SEPARATE BANK ACCOUNT FOR ATTORNEY'S FEES.

(a) A candidate for elective City office or an elected City officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or

criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the Political Reform Act.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in the Political Reform Act.

SECTION 2-2211. ENFORCEMENT AUTHORITY - COMPLAINTS, LEGAL ACTION, INVESTIGATORY POWERS.

(a) Any person who believes that a violation of any portion of this article has occurred may file a report with the Enforcement Authority. If the Enforcement Authority determines that there is reason to believe a violation of this article has occurred, he or she shall make an investigation. Whenever the Enforcement Authority has reason to believe a willful violation of this article has occurred or is about to occur, he or she may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

(b) The Enforcement Authority shall have such investigative powers as are necessary for the performance of the duties prescribed in this article and may demand, and shall be furnished, records of campaign contributions and expenses at any time.

SECTION 2-2212. ENFORCEMENT.

(a) Each candidate or treasurer who received part or all of the contributions in violation of the contribution limits of this article, shall pay promptly, from available campaign funds, if any, the amount received in excess of the amount permitted in this article, to the City Controller for deposit in the General Fund of the City, even though outstanding debts remain unpaid because of such forfeiture.

(b) Any person who knowingly or willfully causes another person to violate any provision of this article, or who aids and abets any other person in the violation of any provision of this Article, shall be liable under the provisions of this section.

(c) Prosecution of violation of any provision of the article shall be commenced within four years after the date of the violation.

(d) The enforcement provisions of this section are in addition to, and not in place of, any means of enforcement or remedies at law.

(e) Any person who violates any of the provisions of this article shall, in addition to any other provisions of this article, be subject to the enforcement provisions set forth in the Political Reform Act, which are hereby incorporated by reference.

(f) The Enforcement Authority may institute such legal action at such time as he or she deems necessary to prevent further violations or to redress prior violations.

SECTION 2-2213. APPLICABILITY OF OTHER LAWS. Nothing in this article shall exempt any person from, or excuse such person's noncompliance with, applicable provisions of any other laws of the state or any other jurisdiction.

SECTION 2-2214. SEVERABILITY. If any provision of this article, or the application of any such provision to any person or circumstances, shall be held invalid, the remainder of this article, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this extent the provisions of this article are severable.

SECTION 2. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its passage.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the 23rd day of September, 2003.

AYES : Calhoun, Castillo, Dages, Perea, Sterling
NOES : Duncan, Boyajian
ABSENT : None
ABSTAIN : None

Mayor Approval: October 2, 2003
Mayor Approval/No Return: N/A, 2003
Mayor Veto: N/A, 2003
Council Override Vote: N/A, 2003

REBECCA E. KLISCH
City Clerk

BY:

(d)(5)

Deputy

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

BY:

(d)(5)

Deputy

TY:mg[27987ty/ord](09/10/03)

September 24, 2003

Council Adoption: Sept. 23, 2003

TO: MAYOR ALAN AUTRY
FROM: REBECCA E. KLISCH, City Clerk (d)(5)
SUBJECT: TRANSMITTAL OF COUNCIL ACTION
FOR APPROVAL OR VETO

RECEIVED
2003 OCT -2 PM 4:48
CITY CLERK, FRESNO CA
Mayor Approval: _____
Mayor Veto: _____
Override Request: _____
By: _____
Deputy

At the Council meeting of 09/23/03, Council adopted the attached Ordinance No. 2003-84, entitled Adding Art. 22 to Chapter 2 of FMC re: campaign contribution limits (2-B), by the following vote:

Ayes : Calhoun, Castillo, Dages, Perea, Sterling
Noes : Duncan, Boyajian
Absent : None
Abstain : None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before 10/04/03. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

APPROVED: X

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

(d)(5)

Alan Autry, Mayor

Date: 10.2.03

COUNCIL OVERRIDE ACTION:

Date: _____

Ayes :
Noes :
Absent :
Abstain :